IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 22794 of 2007(L)

PETITIONER:

C.V.SURENDRAN, LOWER DIVISION CLERK,
OFFICE OF THE ASSISTANT COMMISSIONER,(AA)
DEPARTMENT OF COMMERCIAL TAXES, KASARAGOD.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. STATE OF KERALA, REP. BY SECRETARY TO GOVT., TAXES DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF VIGILANCE AND ANTI CORRUPTION BUREAU, TRIVANDRUM.

3. THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.

BY ADV. SRI. NANDAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF STATEMENT FILED BY THE 1ST RESPONDENT IN W.P.(C) NO. 25566/06 BEFORE THIS HON'BLE COURT ON 17.03.2007.

EXT.P2: TRUE COPY OF G.O(RT) NO.125/07/VIG. DATED 28.05.2007 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE ADDL. SECRETARY, VIGILANCE (A) DEPARTMENT., GOVT. SECRETARIAT, TRIVANDRUM.

/True Copy/

P.A to Judge.

V. GIRI , J

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W.P.(C) NO. 22794 OF 2007

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Dated this the 18th day of September, 2007.

JUDGMENT

The petitioner was placed under suspension on 20.09.2002, while serving as an L.D. Clerk at the check post at Manjeswar. Certain other persons were also under suspension simultaneously. The suspension was revoked in respect of all of them with effect from 20.01.2004. One such person sought for regularisation of the period of suspension and that request was not considered. He filed W.P.(C) No. 25566/2006. Ext.P1 is the statement filed therein. Paragraph 3 of the statement is extracted hereunder:

> "On the basis of the Ext.P2 Order final report in Cr. No. VC4/2002-NRK was filed before the Hon'ble Court of the Enquiry Commissioner & Special Judge, Kozhikode. But the Hon'ble Court did not accept the final report and directed to conduct further investigation and file report in accordance with law. So further investigation was conducted and is pending decision to prosecute A2, A3, A4, A5, A6, A8, A9, A11 and A12 u/s 13(1) (e) r/w 1392) of PC Act, 1988. No action recommended against A1-Shri. M. Raveendran, A7-Shri. C.V. Surendran and A10- Shri. T.K. Balan, the petitioner, who was not on duty at the time of Surprise Check."

2. The statement therefore reveals that no action was recommended against the petitioner Shri. C.V. Surendran. Apparently, Ext.P2 order was issued in the case of the petitioner in W.P.(C) No. 25566/2006 in which Ext.P1 statement is filed. The period of suspension was regularised as duty for all purposes including pay and allowances.

3. Pointing out Ext.P1 and P2 as well, the petitioner has filed Ext.P3 representation before the Government seeking regularisation of the period of suspension from 20.09.2002 to 20.01.2004.

4. I have heard Mr. Jaju Babu and learned Special Government Pleader, Mr. Nandakumar as well. The writ petition is disposed of in the following manner:

5. The petitioner shall make available a copy of the writ petition along with the copy of the judgment before the Principal Secretary, Vigilance Department within a period of three weeks from the date of receipt of a copy of this judgment. On receipt of the same, the Principal Secretary, Vigilance Department will take appropriate decision on the request made in Ext.P3 within a period of four weeks thereafter taking note of Exts.P1 and P2.

V. GIRI, JUDGE.

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